

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

ALBERT CHRIS HESTERMAN, an individual, and LORI TROCHIM, an individual,

Plaintiffs,

No.

COMPLAINT FOR DAMAGES

JURY DEMAND PURSUANT TO
FED.R.CIV.P 38(b)

RPM INTERNATIONAL, INC., a Delaware Corporation, RPM WOOD FINISHES GROUP, INC. a Nevada Corporation, STEWART-MACDONALD, a Delaware Corporation, CHARTPAK, INC., a Delaware Corporation, NAKOMA PRODUCTS, LLC, an Illinois Corporation, SEAGRAVE COATINGS CORPORATION, a Delaware Corporation, H. BEHLEN & BRO. Inc., MOHAWK FINISHING PRODUCTS, ZIPPO MANUFACTURING, a Pennsylvania Corporation, SHELL CHEMICAL LP, a Delaware Corporation, SHELL OIL, a Delaware Corporation, 3M COMPANY, a Delaware Corporation, SATELLITE CITY, a California Corporation, CAIG LABORATORIES, INC, a California Corporation, M.L. CAMPBELL, an Ontario, Canada Corporation, THE SHERWIN WILLIAMS COMPANY, an Ohio Corporation.

Defendants.

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1 COME NOW PLAINTIFFS, by and through their counsel of record, Michael A. Maxwell
2 and Thomas J. Degan Jr. of Maxwell Graham, PS, and allege the following cause of action:
3
4

5 I. PARTIES
6

7 1.1 Plaintiff Albert Chris Hesterman is a resident of Seattle, Washington.
8

9 1.2 Plaintiff Lori Trochim is a resident of Seattle, Washington.
10

11 1.3 Defendant RPM International, Inc. is a Delaware corporation which regularly
12 conducts or has conducted business in the State of Washington.
13

14 1.4 Defendant RPM Wood Finishes Group, Inc., is a Nevada corporation which
15 regularly conducts or has conducted business in the State of Washington.
16

17 1.5 Defendant Stewart-MacDonald is a Delaware corporation which regularly conducts
18 or has conducted business in the State of Washington.
19

20 1.6 Defendant Chartpak, Inc., is a Delaware corporation which regularly conducts or
21 has conducted business in the State of Washington.
22

23 1.7 Defendant Nakoma Products, LLC, is an Illinois corporation which regularly
24 conducts or has conducted business in the State of Washington.
25

26 1.8 Defendant Seagrave Coatings Corporation is a Delaware corporation which
27 regularly conducts or has conducted business in the State of Washington.
28

29 1.9 Defendant H. Behlen & Bro. is a corporation which regularly conducts or has
30 conducted business in the State of Washington.
31

32 1.10 Defendant Mohawk Finishing Products is a corporation which regularly conducts
33 or has conducted business in the State of Washington.
34

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1.11 Zippo Manufacturing is a Pennsylvania corporation which regularly conducts or has conducted business in the State of Washington.

1.12 Shell Chemical, LP, is a Delaware corporation, which regularly conducts or has conducted business in the State of Washington.

1.13 Shell Oil Company, is a Delaware corporation, which regularly conducts or has conducted business in the State of Washington.

1.14 3M Company, is a Delaware corporation, which regularly conducts or has conducted business in the State of Washington.

1.15 Satellite City, is a California corporation, which regularly conducts or has conducted business in the State of Washington.

1.16 CAIG Laboratories, Inc., is a California corporation, which regularly conducts or has conducted business in the State of Washington.

1.17 M.L. Campbell, is an Ontario, Canada corporation, which regularly conducts or has conducted business in the State of Washington.

1.18 The Sherwin Williams Company, is an Ohio Corporation, which regularly conducts or has conducted business in the State of Washington.

1.19 The above entities are hereinafter referred to as "Defendants".

II. JURISDICTION AND VENUE

2.1 Plaintiff Albert Chris Hesterman was exposed to chemicals and solvents used, distributed, manufactured and or/marketed by Defendants in King County, Washington.

2.2 Plaintiffs' claims against Defendants arise out of the same series of transactions or occurrences that gave rise to Plaintiffs' Claims.

1 III. FACTS

2 3.1 Plaintiff Albert Chris Hesterman was employed as a guitar repair technician at The
3 Trading Musician in Seattle, Washington, from June 1994-December 17, 2015.

4 3.2 During the course of Plaintiff Albert Chris Hesterman's employment at The
5 Trading Musician Plaintiff Hesterman used products manufactured by Defendants which contained
6 Benzene and/or other harmful solvents.

7 3.3 As the result of said exposure Defendant Albert Chris Hesterman developed acute
8 lymphoblastic leukemia (ALL).

9 10 IV. CAUSE OF ACTION

11 12 4.1 NEGLIGENCE

13 4.1.1 Defendants are liable for manufacturing, selling, marketing, distributing, designing
14 and/or placing in the stream of commerce products that were defective, hazardous and/or
15 carcinogenic.

16 4.1.2 Defendants were aware or should have been aware of the dangers associated with
17 exposure to the hazardous chemicals and substances which they manufactured, sold, marketed,
18 distributed, designed, or placed in the stream of commerce to the end consumer.

19 4.1.3 Defendants failed to take adequate precautions to warn Plaintiff Albert Chris
20 Hesterman of the dangers and harm to which Plaintiff was exposed while handling these products,
21 and failed to adequately instruct Plaintiff in the use of reasonably safe and sufficient apparel and
22 protective equipment to protect him from injury caused by exposure to said chemicals and
23 substances.

1 4.1.4 Plaintiff Albert Chris Hesterman's acute lymphoblastic leukemia was proximately
2 caused by exposure to said chemicals and substances.

3 4.2 PRODUCTS LIABILITY RCW 7.72.030

4 4.2.1 As alleged more fully above, the products in question were not reasonably safe as
5 designed or manufactured, or were not reasonably safe because adequate warnings or instructions
6 were not provided.

7 4.2.2 Alternatively Defendants failed to exercise reasonable care in the manufacture and
8 design of the products.

9 4.2.3 Alternatively Defendants breached express and implied warranties regarding the
10 fitness and merchantability of the products.

11 4.2.4 As a proximate result of Defendants' wrongful actions, the Plaintiff suffered
12 injuries in an amount to be determined at trial, for which Defendants are liable under RCW
13 7.72.030.

14 4.3 PRODUCTS LIABILITY RCW 7.72.040

15 4.3.1 The above paragraphs are fully incorporated herein by reference.

16 4.3.2 The products were a trade name of the Defendant product sellers.

17 4.3.3 The Defendant product sellers are liable for the injuries to Plaintiff to the same
18 extent as a manufacturer under RCW 7.72.040.

19 4.4 DAMAGES

20 4.4.1 As the result of the acute lymphoblastic leukemia caused by exposure to said
21 chemicals and substances, Plaintiff Albert Chris Hesterman suffered pain, suffering, loss of
22 enjoyment of life and economic loss in the form of medical special damages and lost earnings.

4.4.2 As the result of the acute lymphoblastic leukemia, Plaintiff Lori Trochim incurred lost earnings and other pecuniary damages while caring for Plaintiff Albert Chris Hesterman.

V. JURY DEMAND PURSUANT TO FED.R.CIV.P. 38(b)

Plaintiff hereby requests that any and all of this aspects of this suit be tried before a jury pursuant to Fed.R.Civ.P. 38(b), subject to the further order of this Court.

VI. RELIEF REQUESTED

WHEREFORE, the Plaintiff prays as follows:

1. Judgment for money damages to be proven at time of trial;
2. Judgment for attorney's fees, costs, and disbursements for this suit, including limited to the Plaintiff's attorney fees and costs;
3. Such other relief as the Court may deem just and proper.

Dated this 17th day of December, 2018

MAXWELL GRAHAM, P.S.

Michael A. Maxwell, WSBA# 21781
Thomas J. Degan Jr., WSBA # 31513
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